

RD AN No. 3866 (1942-G)
May 19, 2003

SUBJECT: Rural Business Enterprise Grant Program
Clarification of Private Business

TO: State Directors, Rural Development

ATTN: Business Programs Directors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify the meaning of **private business** under the Rural Business Enterprise Grant Program (RBEG). Several issues have come to the attention of the National Office relating to the application of the term private business when dealing with Native American Tribes. This is intended to provide guidance until we can develop a change to RD Instruction 1942-G to further clarify requirements.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 3691 (1942-G) dated December 21, 2001, with the subject, "Rural Business Enterprise Grant Program – Clarification of Private Business."

IMPLEMENTATION RESPONSIBILITIES:

Section 310B(c)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)) and RD Instruction 1942-G, section 1942.306(a), authorizes grants to finance and facilitate development of small and emerging private business enterprises.

A **private business** must be owned and controlled either by individuals or by a nonpublic entity such as a corporation, which is legally chartered by a State government or a Federally recognized Indian tribe.

For a tribally owned business to be considered private, it must be held through a separate entity, such as a tribal corporation. The corporation may be owned by the tribe and distribute profits to the tribe. However, the governing board must be independent from

EXPIRATION DATE:
May 31, 2004

FILING INSTRUCTION:
Preceding RD Instruction 1942-G

the tribal government and elected or appointed for a specific time period. Board members must not be subject to removal without cause by the tribal government. A majority of the board members must not now or in the future, as long as they are board members, be members of the tribal council or other governing board of the tribe.

An RBEG grantee may use the funds to assist a small and emerging private business by making a loan to the business (revolving loan fund), providing technical assistance, or purchasing real or personal property to be leased to the business. RBEG funds must not be passed-through directly to the benefiting small and emerging private business. Grantees must oversee and control the project until completion.

If you have any questions concerning the content of this AN, please call Amy Cavanaugh, Loan Specialist, Specialty Lenders Division Processing Branch, (202) 690-2516.

(Signed by John Rosso)

JOHN ROSSO
Administrator